

REMARKS

Before entry of this Amendment and Response, the status of the application according to the pending Office action is as follows:

Claims 1, 4, 6-9, 11, 14, 15, 17, and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,222,733 to Wahlfeld et al. (hereinafter "Wahlfeld") in view of U.S. Patent No. 3,797,168 to Trout (hereinafter "Trout").

Applicants hereby amend independent claims 1, 9, and 15. Applicants hereby add new dependent claims 27-29. Support for the amendments can be found in the application as originally filed and at least at paragraphs [0031] and [0034], and FIGS. 3 and 5, of the application as published. No new matter is added thereby.

In view of the above amendments and following remarks, Applicants respectfully request reconsideration and withdrawal of all grounds of rejection and allowance of claims 1, 4, 6-9, 11, 14, 15, 17, 19, and 27-29 in due course.

I. Claims 1, 4, 6-9, 11, 14, 15, 17, and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wahlfeld in view of Trout. Applicants respectfully traverse the rejection as applied to the claims, as amended.

Wahlfeld appears to disclose a balance spring lock assembly 169 comprising two hollow housing sections 172, 174 forming a cavity 173 therebetween. A pawl 170 is pivotably mounted in the cavity 173 and carried on a pivot pin 177. The pawl 170 is urged about the pivot pin 177 by a leaf spring 184, where a tooth 182 on one end of the pawl 170 engages a side wall 45 when movement of the pawl 170 is not encumbered. Col. 8, ll. 37-48, of Wahlfeld. Wahlfeld also appears to disclose a pivot pin 154 with a head 158 partially composed of a radial shoulder 166 that forms a right angle at a point 168 of maximum diameter. The housing sections 172, 174

include a boss 178 and a notch 180 that accommodates the shoulder 166. Col. 8, ll. 21-28. The pawl 170 has a leg 179 on the end opposite the tooth 182, wherein the leg 179 is engaged by the radial shoulder 166 of the pivot pin head 158 when a window is erect. The engagement urges the pawl 170 about the pivot pin 177, dislodging the tooth 182 from the side wall 45. Col. 8, ll. 49-54.

Trout appears to describe a slide body 64 and a bent locking lever 86 pivotally mounted thereto. The locking lever 86 is manually moved between a locked position and an unlocked position by the rotation of a trunnion key 118 located in the window sash. See col. 3, ll. 8-50 and col. 4, ll. 15-66, of Trout.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on Applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). MPEP § 706.02(j).

Applicants respectfully submit that a *prima facie* case of obviousness is not established with respect to amended independent claim 1 (from which claims 4 and 6-8 depend), amended independent claim 9 (from which claims 11 and 14 depend), and amended independent claim 15 (from which claims 17 and 19 depend), at least because the combination of Wahlfeld and Trout fails to teach or suggest all of the limitations of those claims.

Specifically, independent claim 1 has been amended to recite a pivoting locking member “at least partially disposed about the lower end, the front surface, and the rear surface of the slide block” and “coupled to an external surface of a slide block.” Wahlfeld only discloses a pivoting locking member 170 contained between the housing sections 172, 174 of the lock assembly 169, *i.e.*, within the cavity 173 internal to the housing sections 172, 174. See, for example, col. 8, ll. 3-20, and FIG. 6, of Wahlfeld. The locking member 170 of Wahlfeld is disposed within the housing and not about the lower end, the front surface, or the rear surface of the lock assembly housing.

Furthermore, the locking member 170 of Wahlfeld is coupled to the lock assembly housing via a pivot pin 177 and boss 175 extending from internal surfaces of the housing sections 172, 174. See, for example, col. 8, ll. 3-20, and FIG. 7. Accordingly, Wahlfeld does not disclose a pivoting locking member “coupled to an external surface” of the lock assembly housing.

Trout fails to cure these deficiencies of Wahlfeld, namely, for example, the lack of a pivoting locking member “at least partially disposed about the lower end, the front surface, and the rear surface of a slide block” and a pivoting locking member “coupled to an external surface of the slide block.”

Specifically, Trout describes a bent locking lever 86 mounted within a slide body 64. See FIGS. 4 and 6, of Trout. Thus, the locking lever of Trout is neither at least partially “disposed about the lower end, the front surface, and the rear surface” of the slide block, nor “coupled to an external surface of the slide block”, as recited in amended independent claim 1.

Therefore, neither Wahlfeld nor Trout, alone or in proper combination, teaches, suggests, or motivates one skilled in the art to contemplate a balance shoe for use in a window jamb

comprising, in part, “a pivoting locking member at least partially disposed about the lower end, the front surface, and the rear surface of the slide block, the locking member coupled to an external surface of the slide block.” Accordingly, amended independent claim 1 is patentable over Wahlfeld in view of Trout. Because claims 4 and 6-8 depend directly from amended independent claim 1, and include all of the limitations thereof, these claims are patentable as well.

Similarly, independent claim 9 has been amended to recite a pivoting locking member “at least partially disposed about the lower end, the front surface, and the rear surface of the slide block” and “coupled to an external surface of a slide block.”

As discussed with respect to amended independent claim 1, neither Wahlfeld nor Trout, alone or in proper combination, teaches, suggests, or motivates one skilled in the art to contemplate a balance shoe comprising, in part, “a pivoting locking member at least partially disposed about the lower end, the front surface, and the rear surface of the slide block, the locking member coupled to an external surface of the slide block.” Accordingly, amended independent claim 9 is patentable over Wahlfeld in view of Trout. Because claims 11 and 14 depend directly from amended independent claim 9, and include all of the limitations thereof, these claims are patentable as well.

Independent claim 15 has also been amended to recite a pivoting locking member “at least partially disposed about the lower end, the front surface, and the rear surface of the slide block” and “coupled to an external surface of a slide block.”

As discussed with respect to amended independent claim 1, neither Wahlfeld nor Trout, alone or in proper combination, teaches, suggests, or motivates one skilled in the art to contemplate a balance shoe comprising, in part, “a pivoting locking member at least partially

disposed about the lower end, the front surface, and the rear surface of the slide block, the locking member coupled to an external surface of the slide block.” Accordingly, amended independent claim 15 is patentable over Wahlfeld in view of Trout. Because claims 17 and 19 depend directly from amended independent claim 15, and include all of the limitations thereof, these claims are patentable as well.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1, 4, 6-9, 11, 14-15, 17, and 19 under 35 U.S.C. § 103(a) as being unpatentable over Wahlfeld in view of Trout.

2. Applicants have added new claims 27-29, which depend directly from amended independent claims 1, 9, and 15, respectively, and are patentable at least for the reasons discussed hereinabove with respect to claims 1, 9, and 15.

In addition, neither Wahlfeld nor Trout, alone or in proper combination, teaches or suggests a slide block comprising “a ledge extending from at least one of the front surface and the rear surface thereof, the ledge configured to contact and limit rotation of the pivoting locking member when in a locked position,” as recited in claims 27-29. Specifically, neither Wahlfeld nor Trout appear to disclose a slide block having such structure for contacting and limiting over-rotation of a pivoting locking member when in a locked position.

CONCLUSION

In view of the foregoing, Applicants respectfully request reconsideration, withdrawal of all grounds of rejection, and allowance of claims 1, 4, 6-9, 11, 14-15, 17, 19, and 27-29 in due course. The Examiner is invited to contact Applicants' undersigned representative by telephone at the number listed below to discuss any outstanding issues.

Respectfully submitted,

Date: October 4, 2007
Reg. No. 42,545

Customer No. 051414
Tel. No.: (617) 570-1607
Fax No.: (617) 523-1231

eSignature: /John V. Forcier/
John V. Forcier
Attorney for Applicants
Goodwin Procter LLP
Exchange Place
Boston, Massachusetts 02109

LIBC/3102374.1